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In re Application of
John G. Babish et al.
Application No. 09/919,506
Filed: July 31, 2001
Attorney Docket No. T8638.NP

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition, filed September 6, 2006, under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**.

A Final Office Action was mailed November 30, 2004 which set a three month period for response. In response thereof, a Notice of Appeal was filed June 2, 2005, with a three month extension of time request. Instead of filing an Appeal Brief by August 2, 2005, on December 28, 2005, petitioners argue that they filed an RCE in response to the Notice of Appeal with a five month extension of time request. A Notice of Abandonment however was mailed on March 27, 2006, because the RCE and five month extension of time filed December 28, 2005 were not matched with the file.

A search of the application file and the USPTO records reveals that in fact, the Notice of Appeal was filed with a three month extension of time and thus was timely filed and that the RCE, amendment and five month extension of time, all with the proper fees, were timely filed on December 28, 2005 (certificate of mail date). The receipt date for the RCE, amendment and five month extension of time is January 3, 2006 and a copy of the post-card receipt, date stamped by the USPTO on January 3, 2006 is of record with the instant petition.

Accordingly, the response was timely and the Notice of Abandonment mailed March 27, 2006 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 1655 for processing the RCE filed December 28, 2005.

Telephone inquiries concerning this matter may be directed to the undersigned
Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions